

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

JONATHAN MCCLAIN, SR.,)	
Plaintiff,)	Civil Action No. 7:15cv00655
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
SOUTHERN PARTNERS,)	By: Norman K. Moon
Defendant.)	United States District Judge

Jonathan McClain, Sr., an inmate proceeding *pro se*, filed a civil rights action pursuant to 42 U.S.C. § 1983 against “Southern Partners.” McClain is currently housed at the Rockingham-Harrisonburg Regional Jail. While McClain does not make clear who “Southern Partners” is or what they do, it appears he is intending to name Southern Health Partners, Inc., a provider of inmate healthcare to local jails. Having reviewed the complaint, I conclude that it must be dismissed without prejudice for failure to state a claim pursuant to 42 U.S.C. § 1997e(c)(1).

To state a cause of action under § 1983, a plaintiff must allege facts indicating that he has been deprived of rights guaranteed by the Constitution or laws of the United States and that this deprivation resulted from conduct committed by a person acting under color of state law. *West v. Atkins*, 487 U.S. 42 (1988). Despite being given the opportunity to amend his complaint, McClain makes no direct allegation against the defendant and “[s]ection 1983 will not support a claim based on a *respondeat superior* theory of liability.” *Polk Cnty. v. Dodson*, 454 U.S. 312, 325 (1981) (citing *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 694 (1978)). Moreover, a private corporation is not liable under § 1983 for actions allegedly committed by its employees when such liability is predicated solely upon a theory of *respondeat superior*. See *Austin v. Paramount Parks, Inc.*, 195 F.3d 715, 727-28 (4th Cir. 1999); *Powell v. Shopco Laurel Co.*, 678 F.2d 504, 506 (4th Cir. 1982). Accordingly, I conclude that McClain’s complaint fails to state a

claim upon which relief may be granted and, therefore, will dismiss the complaint without prejudice.

ENTER: This 18th day of March, 2016.



NORMAN K. MOON
UNITED STATES DISTRICT JUDGE